

Virginia Health Reform Initiative Advisory Council Meeting

September 9, 2011: 9 a.m. to 5 p.m.

**Virginia Department of Health Professions (located at the Perimeter Center)
2nd floor Board Room in the Commonwealth Conference Center
9960 Mayland Drive, Henrico, Virginia 23233**

MINUTES

Welcome/Introductory Remarks

Dr. Bill Hazel, Secretary of Health and Human Resources

The Governor asked: would you have a Health Benefits Exchange (HBE) if you didn't have to? Council has determined to do so rather than have the federal government doing it. Almost every state is doing so but not talking about it. Gov. Barber of MS said he has been trying to do so since 2007. Council is to offer recommendations to go forward with HBE.

Employer Input into Health Reform: Results of the Survey

Lee Ann Holdren, Alan Newman Research

This was Phase 2 of our research: what do people know about HBE, what do they think about it, how should board be constituted?

1200 surveys across state; companies had to offer insurance or be considering it. We used health dept. regions. Not a lot of difference in response by region, but by size of company: "skeptical optimism"
Negative comments related to government control or ability of VA to implement.

Responses:

About half of companies who offer health insurance indicated that 75% or more of employees participated in the company plan.

Most likely reason for employees declining company sponsored insurance is availability of insurance coverage from a family member.

Among companies that do not currently offer employee health insurance, high premium and out of pocket costs are most frequently cited as reasons.

Alternative coverage does not emerge as primary reason for opting against company coverage.

Least likely to be identified as a reason for not offering company sponsored insurance: lack of employee interest.

Larger organizations are more likely to have heard of HBE than smaller companies.

Toll-free hotline and freedom to purchase inside or outside the HBE were most appealing; also

Tools to compare plans in HBE and help calculate out of pocket costs.

Nearly half were positive about availability of unbiased experts and cost parity in and out of HBE.

Assistance in determining eligibility for public programs or tax credits was less positively received.

Of key HBE features, nearly half thought they were "somewhat favorable," 26% very favorable.

Nearly two thirds strongly agreed that small business representatives be on HBE board.

Opinions mixed on including various other types of people should be on HBE board

Most likely to react negatively to board were elected officials, insurance executives and drug company representatives.

Health plan inclusion scenarios:

HBE open to every qualified health plan that meets federal requirements.

Most employers preferred a flexible approach featuring defined contribution, all available HBE plans and an option for employee to pay difference.

Less likely to believe that HBE will make health insurance more affordable for small business.

Nearly $\frac{3}{4}$ of small businesses believe that HBE will make health insurance less complex.

Small battery of questions re wellness programs: By a wide margin, larger employers are most likely to offer; 52% of employers with 50-499 do offer

Q – Dise – surprised by difference in telephone v. focus group responses

Q – Hazel – how do we use this? Note that many of Advisory Council not recommended for HBE board.

Recommended allowing all qualified plans in the HBE; Tax credits and how to lower overall costs; governance means something to small businesses.

Q – Massie – sees that small businesses need the help so we should discuss this afternoon.

Q – Task Force member – HBE should provide assistance to employers with employee eligibility for Medicaid and other public assistance.

Q – Fralin – Presentation was a good overview of business perspective. The positive response to tax credit may be due to their being unaware that they will then be penalized as a result of employee qualifying.

Q – Task Force member – There seemed to be a much broader sense of the costs associated with HBE.

Q – Wilson – noted that responses were based on lack of details, but we will put more meat on bones

Q – Audience member – any research done on contents of plan or certain minimum list of benefits that will be available? Something like, a single male employee would not be interested in maternity coverage?

Response – did not get specific about plan coverage

Hazel – we are likely to meet again especially when essential benefits package is released. Change in order of presentations to go next with PWC.

Making the Market Work Better, PricewaterhouseCoopers LLP – Sandra Hunt

Issues that I will be addressing: importance of stable insurance market and the HBE; elements of ACA that intended to minimize adverse selection risk; structural options to reduce risk; compensating navigators; and measuring success of HBE.

Design elements and regulatory measures that could be used to protect HBE from risks, e.g., adverse selection:

Influx of high risk due to guaranteed issue

Offering only bronze plans

Benefit design differences

Variation in navigator compensation.

Covering the costs of other HBE functions, i.e., Medicaid other public assistance.

Overall size of HBE to help cover costs

Adequacy of risk adjustment

Key structural decisions:

Will market rules be identical in and out of HBE?

Will insurance products be allowed to vary in and out of HBE?

Will the state create separate or combined individual and small business exchanges?

Will the state create separate or combined risk pools?

How will navigators/brokers be compensated?

How will additional HBE functions be funded?

How robust will the risk adjustment process be?

Policy options:

Align insurance company licensure requirements with requirements for QHP under ACA.

Consider range of benefit design differences allowed between HBE and external market: within tiers and across tiers; within HBE, insurance carriers must offer silver and gold plans, but do you require for external as well; if offer bronze in external, do you require that they also must sell in HBE.

Standardize the treatment of the individual and small group markets: Will state offer separate SHOP and individual exchanges?

Standardize impact on premium of navigators and brokers in HBE and the external market.

Ensure broad funding of additional HBE functions, e.g., assessing eligibility for Medicaid and subsidies, tracking employer participation, reporting on quality, access, cost and other market characteristics.

Ensure the risk assessment/adjustment process is robust.

Measuring success: measuring value usually thought of as value = quality/cost.

Measuring stability is reduction in number of uninsured, number of enrollees meets or exceeds targets, continuity of insurance coverage for newly insured, financial performance of HBE insurers meets targets.

Measuring choice: number of qualified MCOs meets or exceeds target; number and range of QHPs meets or exceeds target; and provider networks of QHPs are comparable to those in external market.

Q – Johnson – plans must be copycats, how does this enhance competition and lower cost to small business?

Pooling of small employers will help; standard plan design will give greater choice and comparing various tiers will enable greater and better choices, including costs.

Q – Kusiak – with your knowledge of VA insurance, how much regulation is needed?

Difficult to answer; VA has a well regulated market.

Q – Kusiak – what are most important issues?

Bringing more people into the market

Q – Fralin – what if we set criteria and large insurers don't show up? If we want a robust market, do we let the external market be different and permit adverse selection into HBE?

If adverse selection is permitted, it will eventually go out of business.

Q – Fralin – even with all federal subsidies, employer penalties, etc?

Subsidy is one form of risk adjustment and then broader adjustment in market; transfer of funding from low risk individual to high risk individual. Could design HBE to account but premium rates would rise.

Q – Tax nonparticipating insurance companies to help cover cost of HBE for additional services?

Certain functions of HBE must be included, i.e., screening for Medicaid. Cost for those should be broadly shared.

Q – Hazel – is there any flexibility to paying for the HBE?

Q – Fralin – do rules have to be so strict in and out of HBE?

King – if HBE rules are too strict, yes, insurers will not participate. Adverse selection is overblown; plenty of rules exist to protect HBE.

Dise – underwriting is pretty much gone; will minimize adverse selection.

Q – Hazel – how do we do this, to setup the HBE; go back to General Assembly? Does General Assembly tell BOI to make in and out of market equal?

Cunningham – yes, General Assembly would have to tell us to do so. General Assembly could authorize BOI to equalize and then through a public process BOI would develop regulations.

Q – Hazel – how long does process take?

3-6 months possibly; it's incredibly complicated so perhaps 6 -9 months with public input

Q – Fralin – we have not decided where it will be located. General Assembly will determine.

Insurance rules will have to be established regardless of where it's established.

Q – Kusiak – Have states made the decision of whether plans can choose not to participate in the HBE?

Nichols – varies widely; CA has decided to limit the number of plans within HBE. As Burke mentioned, there are a lot of rules in the law to deter adverse selection.

Q – Nichols – once rules are set by BOI, how long to price a plan?

King - By January 2013

Q – Hall – Dr. Hazel, have you decided that members of the advisory council will not be on the HBE board?

There is no decision at this point. We have to give guidance to the governing board.

Q – Wilson – if larger insurance companies do not participate, it will greatly reduce small business choice and network access.

Q – Hamrick – Slide refers to transfer of funds; who's transferring funds?

Risk adjustment moves money from one carrier to another and has potential to require that risk adjustment be done at the tier level. Similar to how done in Medicaid today.

Predictions About Exchange Enrollment, Urban Institute

Scenarios modeled: coverage separate for small business (up to 50) and individual markets; policy choice re merging small group and individual markets; policy choice re defining small firms as up to 100 workers v. 50; the risk of adverse selection in the HBE.

Major Findings re coverage: half of current 1 million VA uninsured would be covered.

Leads to \$860 million less spent on uncompensated care.

67,000 gain group coverage, 39,000 gain individual coverage; Medicaid increase by 420,000.

Non-group exchange pool would cover 283,000.

Small employer pool would cover 232,000 in early years, rising to 473,000 in later years with expansion of small group market to 100 workers.

Major findings re merging risk pools: raise small group premiums about \$220 on average resulting in 25,000 fewer covered by group plans; non-group premiums would decrease by \$500 on average resulting in 31,000 more covered in non-group market and 52,000 in HBE; 10,000 fewer uninsured with the merger.

Major findings re small firms up to 100: relatively small increase in size of HBE population.

Major findings re risk of adverse selection: average non-group premium outside HBE falls from \$4800 to \$1900; inside the premium rises from \$5200 to \$6900; resulting in federal cost of subsidies rising by \$146 million.

Health insurance policy simulation model:

Data – based on a representative population of Virginians and their health care costs

Model - A set of math equations derived from decades of economic and health research on employer and individual behavior

Results – premiums are determined by health care costs of covered persons; premium computation and choices of employer and individual are repeated until decisions settle.

More than half of the population who are below 200% of poverty become insured under health reform, largely with Medicaid. A series of graphic displays illustrated the data re the impact on health insurance coverage with and without health reform as discussed under major findings above.

Q – Hazel – have you modeled what happens without mandate to purchase coverage?

Yes, most impact on higher income population of 300-400% of poverty.

Q – King – state of NY has mandatory issue and premiums are about 4 times those of VA. People wait until they need coverage before buying it.

Federal subsidies: about 150,000 would receive.

Small employer enrollment: 40% of non-group market would be in HBE, assuming broker neutrality.

In later years, small group market goes up to 100 employees so many more enroll (60%).

Policy choice: do you pool small companies with individual market? When merged, model shows slight increase in cost to small company premium and about 10% reduction in individual premium.

Policy choice: expanding small group to 100 employees? Doesn't change much if done at outset.

Q – King – did you model if companies opt to stay out of HBE and self insure? No.

The risk of adverse selection in HBE scenario: bronze is only benefit level offered outside HBE; only higher tiers offered in HBE; no effective risk adjustment between the two; small company's definition is up to 50 and markets are separate.

Outside HBE premiums are reduced v. inside they are higher, driving higher subsidies.

Conclusions:

Health reform would cut the number of uninsured Virginians by half.

The exchange would cover half a million, rising to nearly 800,000 after several years.

Merging markets would raise small group premiums and lower individual premiums.

Defining small group as up to 100 during 2014-2015 would increase the size of the exchange only modestly.

Adverse selection in the exchange could be substantial if plans outside are allowed to differentiate themselves at the bronze level and risk adjustment is limited in effectiveness.

Q – Kusiak – on slide 14, what's the cause for the increase in insured, what's driving it?

Subsidies, benefit coverage expansion

Q – Kusiak - Assumes benefit structure is no different in the HBE?

Must be same in and out

Q – Task Force member– what was size of model for small group?

1-50 employees

Q – Audience member – people with income above 133 and 200 % are just getting by as it is. How did you model based on affordability?

\$1,000 out of pocket deductible and \$300-400 premiums annually, so is much more affordable. Followed prevailing assumption, that the individual mandate will cause many to purchase as many are price responsive. Take-up rates are nowhere near 100%.

Nichols – many are buying today though they are low income. Lower prices and subsidies will definitely impact increase enrollment.

Q - Burnette – what does the 4800 meant on slide 27?

Non-group premiums, not group.

How is this not a good thing that we want to drive?

Q – Audience member – did you assume affordability based on individual or family?

Individual.

Public Comment (first 10 people who sign up, 2 minutes each)

- Speaker said he would pass, as his question was addressed in presentation.

- Jim Lindsey, reading from a letter by Prof. Jost, Washington and Lee University School of Law, re risk selection: Require level playing field; require insurers to offer same plans in and out of market; either ban stop/loss coverage or modify it.

- Ray Scher – volunteer for Virginia Organizing – concerns: HBE board open meeting and transparency, consumer members, negotiate with plans.

- Maximus representative – comments: definition of eligible entity should include those with Medicaid experience; have no direct or indirect relationship with providers or insurers.

Lunch Break (Provided for Advisory Council members, Task Force Members, staff)

Panel Discussion How Exchanges Should Be Organized

Mark C. Pratt, Senior V P, State Affairs, America's Health Insurance Plans

AHIP focused on implementation of ACA; working with the administration and Congress. Position on HBE is positive to help promote availability, transparency and competition. HBE development has to be done within the individual state's culture. The right HBE model that is market based competition v. government based. It needs to be state based and market oriented. VHRI is making the right choices. The HBE as a market facilitator is the best choice, rather than as an active purchaser. All QHPs should be allowed to participate, without the HBE negotiating rates. The market will be dramatically changed in 2014 regardless. It's a fallacy to believe HBE will reduce costs. The MA Connector is a good example, while greatly improving coverage (98% covered), costs have continued to rise significantly. AHIP supports the development of HBE by the states.

Barbara Wallace, President and CEO, Virginia Business Coalition on Health (VBCH)

The coalition represents 50 companies and 350,000 covered lives. Mission is to educate employers on health care coverage purchasing; promote value based purchasing. The organization evaluates health plan performance through conducting a statewide hospital survey re quality and safety. Our members want something that works: costs are addressed, quality is addressed, and that employers make up a majority of the HBE board. As 501c3, we are a neutral organization. VA Chamber has established a health reform task force to be chaired by member of VBCH.

Q – Houck – Mark, can you expand on “market-oriented”?

Let all QHPs participate v. government entity picking winners and losers, i.e., who gets to participate. Decision making should be made by the businesses that will purchase.

Q – Masee – how would you define “user-friendly”?

Simple and less complex, than the hybrids we tend to have. The information is complicated.

Q – Masee - HBE needs to have an education component?

Definitely.

Q – Hazel – Mark, how do you do a robust market outside? Is it same as inside the HBE?

Some things need to be same to keep both markets healthy. All carriers will not necessarily participate. It all depends on how it's built. MLR can impact that. You want the small, large and national carriers excited about participating. Should have high deductible health plans outside.

Q – Hazel – whatever gets set up by General Assembly, like many new businesses, may fail. How do you adjust the business model to succeed?

Q – Hamrick – Based on 90% price, 10% customer service when companies select plan. How will plans differentiate?

Wallace -Center for healthy small business through VDH could help.

King – It's not 90% price. Network and service design are factors as well as price.

Mark – transparency will be an important part of HBE.

Q – Nichols – Mark, what do you think should have been part of the ACA?

Law provides a lot of flexibility. We just have to make sure we don't create problems by doing too much too fast, making less choice and competition.

Q – Hazel – Mark, how much lead time for "go" or "no go"? What do you see around the country?

2012 is important. 2013 beta testing begins with federal government. It's an aggressive time line and VA seems to be making positive headway.

Q – Kusiak - Where does cost figure into this? What can we do today that will address cost?

Mark – HBE will facilitate subsidies and tax credits, but does not fundamentally address the cost problem. In MA, the Governor told insurance commissioner to not allow health insurance premiums to increase this year.

Q – Hazel – without any controlling entity, how do we create a balance?

Q – King – number of health care procedures consumed times the cost per procedure is what drives total health care costs. Is the HBE going to go in and set price caps on what hospitals and doctors are paid?

No. Is the HBE going to say who can and cannot get procedures? No.

Q – Dise – is MLR a good cost containment solution? Would a provider loss ratio (PLR) cut costs?

Q – Horan – VHRI principle: can a HBE do those things?

Perhaps.

Q – Are there examples out there of market v. government?

CO law specifies that HBE shall encourage market and not negotiate price; not a lot of operating models.

Q – Hope – are there any similarities to federal employee benefits program?

Nichols – OPM sets some broad parameters but does not dictate pricing.

Advisory Council Decision Making

Dr. Bill Hazel, Secretary of Health and Human Resources

(Secretary Hazel did not vote on any of the policy issues.)

Major policy directions to be set by legislature:

Single admin structure or separate? Vote: Single, no nays.

Within HBE, SHOP vs. non-group pool? Motion and second: Fralin/King – separate

Q – Hall – Object to separating, driving costs up in one and down in the other

Q – Horan – Will separate pools effect the outside?

Have to have same inside if same plans are outside because it will create adverse selection.

Vote: motion carries 13 yes (Clarion Johnson, Dise, Little, Tooke-Rawlins, Fralin, Burnette, Wilson, Kusiak, Scott Johnson, Masee, King, Horan and Hamrick), 2 no (Patrick Hope and Chuck Hall), 1 abstain (Houck).

To set parameters of board's discretion:

Select Executive Director? Motion and second: Fralin/Horan – Yes

Vote: Yes - unanimous except 1 abstain (Houck).

To have discretion to require more than the federal requirements for health plan participation? Motion: Yes – Hall/ no second.

- **Rawlins – offer additional language “the board will review objective data on” quality of health plans, etc.**
- **King – board should not have authority to make these decisions; should remain with legislature; MCHP rules cover**
- **Fralin – should not go into this level of detail; leave to legislature and/or the board.**
- **Cunningham – some of the standards have ambiguity; should have far more specificity; MCHP covers**
- **Wilson – too much time spent on this issue. I go back to voting NO.**
- **Kusiak – if we intend to provide transparency and improve quality, then we need a system**
- **Hall – agree**
- **Burnette – if board has discretion to create new requirements, standards, then I have concerns.**
- **Littel – General Assembly may do so, create requirements, but we don't want board to do it on own.**
- **S. Johnson – if we reference existing regulations, then it doesn't allow board creation.**
- **Hamrick – how do we find middle ground philosophically, where “no harm” unintentionally.**
- **Fralin – motion to adopt 3b.ii.1: No**
- **Kusiak – if strike #2, the baseline is state and federal law.**
- **Houck – I'm purposely staying out of this, as I came to get a flavor of the thoughts of this group; thus, abstaining on all votes. Neither the Governor nor legislature will pass off on authority to this board; will not let it elect to exceed federal standards.**
- **Wilson – 2nd on motion? Yes, King. Add “subject to approval by General Assembly”**
- **Vote: NO - 8 in favor (Dise, Littel, Tooke-Rawlins, Fralin, Burnette, Scott Johnson, Masee, King), 6 opposed (Hall, Clarion Johnson, Hope, Wilson, Horan, Hamrick), 2 abstain (Houck and Kusiak).**
- **Hazel - To the extent standards are required, the board will use nationally recommended standards, not creating its own. Also abstaining on votes unless there is a tie.**

To be an Active Recruiter of plans to compete inside the HBE?

- **Horan – who is responsible to improve access?**
- **Motion and second: Horan/Hall : Yes**
- **S. Johnson – add “to participate in and compete.”**

- Little – are you proposing mandating plans participate?
- Horan – no.
- King amendment/second by Wilson: no additional compensation
- Cunningham – no standard to be met?
- Horan – have to play by the same rules.
- Fralin – don’t need to actively recruit if free market; will note No.
- Burnette – are we not requiring a statewide network?
- Horan – not suggesting anything more than doing what is needed in order to provide access as stated in VHRI principles.
- Hazel – add language re the board is to “report to the General Assembly and Governor to recommend policies and changes...”

To require risk pools of SHOP and non-group markets be kept separate

To define ‘small’ as 1-50 until 2016?

- Motion by King to use 2-50; self employed should stay in individual market.
- Wilson – what about groups of 2?
- King – they can come into group coverage within 60 days of application.
- Task Force member – self employed have more to do than worry about enrollment in a health plan.
- Substitute motion by Johnson to hold off on vote/second by Littel.
- Vote: by voice, only 1 no (Fralin), 1 abstain (Houck).
- Hazel – raise limit from 50 to 100?
- Wilson – favor increasing to 100
- King – those employers 50-100 tend to self fund. If small group increased to 100, it will pull some out of pool.
- Hunt/PWC – Agree.
- Vote: limit of 50 – Yes 12 (Hall, Clarion Johnson, Dise, Little, Fralin, Burnette Hope, Kusiak, Massee, King, Horan, Hamrick, 3 no (Dixie Tooke-Rawlins, Joe Wilson and Scott Johnson) and 1 abstain (Houck).
- Hazel – can we get clarification on whether to use 1 or 2 if law permits?
- Dise – is question for 1 person proprietor or all individuals? Proprietor.
- Hall – should help all businesses. Let sole proprietor be in small group.
- Dise – need to be requirements to be determined as sole proprietor.
- Horan – what does this do to the various markets? Don’t underestimate the ripple effect.
- Wilson – need safeguards as Monty mentioned, perhaps require tax reporting as a business before allowing to enter group market. Should have open enrollment period each year.

To give board authority to determine a funding mechanism in order to self finance the HBE after 2014

- Hazel – board needs to have authority to charge fees to be self sufficient.
- Massee – what do you mean, fees? Charges for QHP participation, enrollee fees, etc.
- Cunningham –gives exchange authority to fund its operations through revenues generated by assessment fees on carriers or users that purchase through the Exchange, or other fees as General Assembly may appropriate)
- Hazel: motion to adopt
- Vote: Yea by all but 2 (Fralin and King), 1 abstain (Houck).

To decide congruence or exemptions from current state laws

- Cunningham – SCC is not subject to FOIA but does take public input at open hearings. If assigned to SCC, the HBE director appointed by SCC could hold public hearings.
- Houck – if VHRI wants non-FOIA, then create an exemption in FOIA.
- Hall – HBE should be subject to FOIA; transparency in governance and administration.
- Hazel – we want above transparency.
- Vote: Yes – unanimous except 1 abstain (Houck)
- Personnel administration outside of state requirements
- Vote: Yes - unanimous except 1 abstain (Houck)
- Board function
- Vote: Yea – unanimous except 1 abstain (Houck)

To set broad goals and accountability mechanisms

- Report to General Assembly
- Vote: Yea – unanimous except 1 abstain (Houck)

To define congruence of competition policy inside and outside

- Cindi – at NGA, brokers and navigators are seen as different. There is a distinction between navigators helping low income v. brokers who largely work directly with employers.
- Hazel – drop “outside” from role of agents.
- Dise – board should not set broker fees
- Fralin – allowing payment for inside and outside the HBE to vary will drive enrollment.
- Burnette – board should not control anything outside; needs to be parity though.
- Hazel – broker rates in and out of the HBE should be the same
- S. Johnson – transparency in the amount of rates is needed
- Dise – motion that the board does not have authority; strike #3
- Fralin – agree with motion, should not be doing
- Dise – its talking about agents not navigators. We’re already engaged in some of these things and will have to direct people to HBE. Brokers probably won’t be both agent and navigator.

- Task Force member – please clarify #1 and 2; and what is meant by navigator? Will they work with Medicaid and other low income groups?
- Nichols – agents can be navigators. It is permitted not required. There have to be certification requirements for navigators to work in the HBE. #3 is intended to provide for a level playing field.
- Hamrick – if agent takes client to HBE, will agent disclose fee paid by insurer?
- Hall – agree with Monty. We use a “navigator” through our office to help negotiate price and think it’s necessary and valuable resource.
- Dise – motion to strike #3
- Vote – unanimous with 1 abstention
- Hamrick – motion that agent coming through HBE must disclose fee paid.
- Rawlins – shouldn’t the board define roles?
- Burnette – if not asking board to ensure parity in and out, then someone has to do it, whether BOI or elsewhere.
- Dise – need a broader brush re transparency.

Dr. Hazel called for a brief break.

Reconvene:

- Dise – if looking at fees in HBE, then should look at all fees.
- Burnette – needs to be some required transparency in and out of the HBE, whether at BOI. Motion for transparency and parity/no second.
- Nichols – essential benefits package will not configure exactly with VA mandates. The state will have to pay for those benefits required outside that package. One way to deal with it is to say no required benefits beyond the federal package.
- Fralin – hot button benefit recently on autism. If not included in the essential package, then we’d be taking away benefits. Could have the federal package only in the HBE and require the state mandated benefits in the outside market.
- King – Motion: if Virginia does pass another mandate, then it should apply both in and out of HBE.
- Hazel – what about current mandates?
- King – current and future General Assembly mandates should be required both in and out of HBE.
- Dise –Second the motion.
- Hall – do you leave it in perpetuity?
- Wilson – adverse selection impact if only required outside HBE; need to be same in and out of HBE.
- Horan – do we want to tell the General Assembly what to do on this?
- Vote: Yes 9 (Hall, Clarion Johnson, Dise, Littel, Tooke-Rawlins, Burnett, Hope, King, Horan), 5 no (Fralin, Wilson, Kusiak, Scott Johnson and Hamrick), 1 abstain (Houck).

Delineate the duties of the HBE

- Hazel – as we have previously made these decisions: without objection, consider these duties of the HBE

Major policy decisions that could be delegated to the board

- King – object only to 4, 5vi, and 7
- Hazel – 1, 2, 3, 5 and 6 have been previously agreed upon.
- Fralin – do we not need a safety outlet if things go haywire; ejector seat parameters?
- Hall – without #7, it would be like a sail boat without the rudder.
- Nichols – with 2 separate viewpoints it seems reasonable.
- Fralin – propose amending #7 to add Governor to the decision-making authority.
- Horan – what happens if one of the 3 doesn't agree?
- Fralin – if the board is appointed by the Governor, then I would not have a problem.
- Horan – my problem is with the board.
- Fralin – propose amending to add “As certified by the board and BOI”
- Cunningham – I have difficulty with giving this charge to BOI. It has responsibility to insure that the health plans are financially secure but not so with the HBE.
- Hazel – change language to have only the Governor and board
- Motion: upon certification by the exchange board and the Governor, the board may take these extreme actions
- Vote: 11 yes (Hall, Littel, Tooke-Rawlins, Fralin, Burnette, Hope, Wilson, Kusiak, Scott Johnson, Horan, Hamrick), 2 no (Dise and King), 1 abstain (Houck) and 2 absent (Clarion Johnson and Ned Masee).

Major policy decisions that could be delegated to Executive Director

- Hazel - without objection, these have already been agreed upon.

Return to address #2. Governance (required by HB 2434) on page one the decision tree document:

- Fralin – motion to adopt as new public entity
- Hall - second
- King – should be located at SCC for stability to businesses and the market. Ask Commissioner Cunningham to address how this might be housed there.
- Cindi – please see SCC overview, mission, organization chart, etc. included in today's handouts.
- Cunningham – HBE could be a division of the SCC. Commissioners could serve as a board. HBE would take stakeholder input through public meetings. While not opposed to an advisory board, the Commissioners would prefer to get input through public meetings. SCC would hold hearings on proposed rules.

- **Hall – BOI does excellent work given the complex nature of its work. However, I see mission creep with taking on the HBE and a very different role than its current role. Find access to the Commissioners difficult.**
- **Cunningham – it would be a very different role for SCC, but could be done.**
- **Fralin – SCC is not the right place. This is setting up a market and these are judges. HBE has to have some political oversight.**
- **Cunningham – It's true that SCC's role is traditionally more regulatory, but is also very much focused on consumer protection.**
- **Vote: 11 yes (Hall, Clarion Johnson, Tooke-Rawlins, Fralin, Burnette, Hope, Wilson, Kusiak, Scott Johnson, Horan, Hamrick), 3 no (Dise, Littel, King), 1 abstain (Houck) and 1 absent (Masse).**

Dr. Hazel – meeting adjourned